

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

THOMAS M. BARRETT, SP 2013-DR-109 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction in the minimum yard requirements based on error in building location to permit addition to remain 11.5 ft. from front lot line. Located at 1932 Storm Dr., Falls Church, 22043, on approx. 14,582 sq. ft. of land zoned R-4. Dranesville District. Tax Map 40-1 ((16)) 264. Mr. Byers moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 12, 2014; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The critical factor in each one of these requirements is the noncompliance was done in good faith or through no fault of the property owner, and in this instance, based on the applicant's testimony, the noncompliance was done in good faith.
3. It complies with the rest of the specific letters that are delineated here in the resolution itself.
4. In this instance, the Board took into consideration that, based on what Code Compliance said, the original complaint had absolutely nothing to do with the addition. This was kind of unintended consequences.
5. There is no evidence that anyone has complained about this from the period of time it was built over the last ten years.
6. The applicant has been there since 1985.
7. The applicant is trying to do what is necessary from the standpoint of getting into compliance and doing the correct things with VDOT.
8. The applicant is doing as requested by all of the parties associated with this.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;

- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved for the location of the addition (enclosed carport), as shown on the plat prepared titled, "Special Permit Plat, Lot 264, Section Seven, Pimmit Hills," prepared by John D. Jarrett of Jarrett Surveys, Inc., dated November 22, 2013.
- 2. All applicable permits and final inspections shall be obtained for the addition (enclosed carport) within 180 days of approval of this application.
- 3. Within 180 days of approval of this application, the applicant shall remove all improvements from the right-of-way at the corner of Storm Drive and Friden Drive (a portion of chain link fence and landscape plantings), as well as trim existing landscaping located between the property's driveway and the southwestern corner lot line to a height of no more than 3.5 feet.
- 4. The existing bushes and trees on the side of the addition will remain from the standpoint of shielding the addition itself.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Hammack seconded the motion, which carried by a vote of 6-0. Mr. Beard was absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, appearing to read "K.A. Knoth", written in dark ink.

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Kathleen A. Knoth  
Clerk to the Board of Zoning Appeals